

1 S.195

2 Introduced by Senators Benning, Kitchel, and Sears

3 Referred to Committee on Judiciary

4 Date: January 7, 2014

5 Subject: Crimes and criminal procedure; breach of the peace; disorderly
6 conduct

7 Statement of purpose of bill as introduced: This bill proposes to increase the
8 penalties for second or subsequent convictions for disorderly conduct, and to
9 create a new crime of aggravated disorderly conduct.

10 An act relating to increasing the penalties for second or subsequent
11 convictions for disorderly conduct, and creating a new crime of aggravated
12 disorderly conduct

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 ~~Sec. 1. 13 V.S.A. § 1061 is amended to read:~~

15 § 1061. DEFINITIONS

16 As used in this subchapter:

17 (1) "Stalk" means to engage in a course of conduct which consists of
18 following, lying in wait for, or harassing, and:

19 (A) serves no legitimate purpose; and

20 (B) would cause a reasonable person to fear for his or her physical

21 ~~safety or would cause a reasonable person substantial emotional distress.~~

1 ~~(2) "Course of conduct" means a pattern of conduct composed of two or~~
2 ~~more acts over a period of time, however short, evidencing a continuity of~~
3 ~~purpose. Constitutionally protected activity is not included within the meaning~~
4 ~~of "course of conduct."~~

5 ~~(3)(2) "Following" means maintaining over a period of time a visual or~~
6 ~~physical proximity to another person in such manner as would cause a~~
7 ~~reasonable person to have a fear of unlawful sexual conduct, unlawful restraint,~~
8 ~~bodily injury, or death.~~

9 ~~(4)(3) "Harassing" means actions directed at a specific person, or a~~
10 ~~member of the person's family, which would cause a reasonable person to fear~~
11 ~~unlawful sexual conduct, unlawful restraint, bodily injury, or death, including~~
12 ~~but not limited to verbal threats, written, telephonic, or other electronically~~
13 ~~communicated threats, vandalism, or physical contact without consent.~~

14 ~~(5)(4) "Lying in wait" means hiding or being concealed for the purpose~~
15 ~~of attacking or harming another person.~~

16 Sec. 2. 13 V.S.A. § 1021(4) is added to read:

17 (4) "Course of conduct" means a pattern of conduct composed of two or
18 more acts over a period of time, however short, evidencing a continuity of
19 purpose. Constitutionally protected activity is not included within the meaning
20 of "course of conduct."

1 ~~Sec. 3. 13 V.S.A. § 1026 is amended to read:~~

2 § 1026. DISORDERLY CONDUCT

3 ~~A person who~~ (a) A person is guilty of disorderly conduct if he or she, with
4 intent to cause public inconvenience; or annoyance; or recklessly ~~creating~~
5 creates a risk thereof:

6 (1) ~~Engages~~ engages in fighting or in violent, tumultuous, or threatening
7 behavior; ~~or~~

8 (2) ~~Makes~~ makes unreasonable noise; ~~or~~

9 (3) ~~In~~ in a public place, uses abusive or obscene language; ~~or~~

10 (4) ~~Without~~ without lawful authority, disturbs any lawful assembly or
11 meeting of persons; or

12 (5) ~~Obstructs~~ obstructs vehicular or pedestrian traffic, ~~shall be~~
13 ~~imprisoned for not more than 60 days or fined not more than \$500.00 or both.~~

14 (b) A person who is convicted of disorderly conduct shall be imprisoned
15 for not more than 60 days or fined not more than \$500.00, or both. A person
16 who is convicted of a second or subsequent offense under this section shall be
17 imprisoned for not more than 120 days or fined not more than \$1,000.00,
18 or both.

1 ~~Sec. 4. 13 V.S.A. § 1026a is added to read:~~

2 § 1026a. AGGRAVATED DISORDERLY CONDUCT

3 (a) A person is guilty of aggravated disorderly conduct if he or she engages
4 in a course of conduct directed at a specific person with the intent to cause the
5 person inconvenience, annoyance, or to disturb the person's peace, quiet, or
6 right of privacy and:

7 (1) engages in fighting or in violent, tumultuous, or
8 threatening behavior;

9 (2) makes unreasonable noise;

10 (3) in a public place, uses abusive or obscene language; or

11 (4) threatens bodily injury or serious bodily injury, or threatens to
12 commit a felony crime of violence as defined in section 11a of this title.

13 (b) A person who is convicted of aggravated disorderly conduct shall be
14 imprisoned not more than 180 days or fined not more than \$2,000.00, or both.

15 Sec. 5. EFFECTIVE DATE

16 ~~This act shall take effect on July 1, 2014.~~

Sec. 1. 13 V.S.A. § 1061 is amended to read:

§ 1061. DEFINITIONS

As used in this subchapter:

(1) "Stalk" means to engage in a course of conduct which consists of following, lying in wait for, or harassing, and:

(A) serves no legitimate purpose; and

(B) would cause a reasonable person to fear for his or her physical safety or would cause a reasonable person substantial emotional distress.

~~(2) “Course of conduct” means a pattern of conduct composed of two or more acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of “course of conduct.”~~

~~(3)(2) “Following” means maintaining over a period of time a visual or physical proximity to another person in such manner as would cause a reasonable person to have a fear of unlawful sexual conduct, unlawful restraint, bodily injury, or death.~~

~~(4)(3) “Harassing” means actions directed at a specific person, or a member of the person’s family, which would cause a reasonable person to fear unlawful sexual conduct, unlawful restraint, bodily injury, or death, including but not limited to verbal threats, written, telephonic, or other electronically communicated threats, vandalism, or physical contact without consent.~~

~~(5)(4) “Lying in wait” means hiding or being concealed for the purpose of attacking or harming another person.~~

Sec. 2. 13 V.S.A. § 1021(4) is added to read:

(4) “Course of conduct” means a pattern of conduct composed of two or more acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of “course of conduct.”

Sec. 3. 13 V.S.A. § 1026 is amended to read:

§ 1026. DISORDERLY CONDUCT

(a) A person who A person is guilty of disorderly conduct if he or she, with intent to cause public inconvenience, or annoyance, or recklessly creating creates a risk thereof:

(1) Engages engages in fighting or in violent, tumultuous, or threatening behavior; or

(2) Makes makes unreasonable noise; or

(3) In in a public place, uses abusive or obscene language; or

(4) Without without lawful authority, disturbs any lawful assembly or meeting of persons; or

(5) Obstructs obstructs vehicular or pedestrian traffic, shall be imprisoned for not more than 60 days or fined not more than \$500.00 or both.

(b) A person who is convicted of disorderly conduct shall be imprisoned for not more than 60 days or fined not more than \$500.00, or both. A person who is convicted of a second or subsequent offense under this section shall be

imprisoned for not more than 120 days or fined not more than \$1,000.00, or both.

Sec. 4. 13 V.S.A. § 1026a is added to read:

§ 1026a. AGGRAVATED DISORDERLY CONDUCT

(a) A person is guilty of aggravated disorderly conduct if he or she engages in a course of conduct directed at a specific person with the intent to cause the person inconvenience or annoyance, or to disturb the person's peace, quiet, or right of privacy and:

(1) engages in fighting or in violent, tumultuous, or threatening behavior;

(2) makes unreasonable noise;

(3) in a public place, uses abusive or obscene language; or

(4) threatens bodily injury or serious bodily injury, or threatens to commit a felony crime of violence as defined in section 11a of this title.

(b) A person who is convicted of aggravated disorderly conduct shall be imprisoned not more than 180 days or fined not more than \$2,000.00, or both.

Sec. 5. 13 V.S.A. § 1027 is amended to read:

§ 1027. DISTURBING PEACE BY USE OF TELEPHONE OR OTHER ELECTRONIC COMMUNICATIONS

(a) A person who, with intent to terrify, intimidate, threaten, harass, or annoy, makes contact by means of a telephonic or other electronic communication with another and (i) makes any request, suggestion, or proposal which is obscene, lewd, lascivious, or indecent; (ii) threatens to inflict injury or physical harm to the person or property of any person; or (iii) disturbs, or attempts to disturb, by repeated ~~anonymous~~ telephone calls or other electronic communications, whether or not conversation ensues, the peace, quiet, or right of privacy of any person at the place where the communication or communications are received shall be fined not more than \$250.00 or be imprisoned not more than three months, or both. If the defendant has previously been convicted of a violation of this section or of an offense under the laws of another state or of the United States which would have been an offense under this act if committed in this ~~state~~ State, the defendant shall be fined not more than \$500.00 or imprisoned for not more than six months, or both.

(b) An intent to terrify, threaten, harass, or annoy may be inferred by the trier of fact from the use of obscene, lewd, lascivious, or indecent language or the making of a threat or statement or repeated ~~anonymous~~ telephone calls or

other electronic communications as set forth in this section and any trial court may in its discretion include a statement to this effect in its jury charge.

(c) An offense committed by use of a telephone or other electronic communication device as set forth in this section shall be considered to have been committed at either the place where the telephone call or calls originated or at the place where the communication or communications or calls were received.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2014.